

**UNITED STATES BANKRUPTCY COURT
FOR THE MIDDLE DISTRICT OF NORTH CAROLINA
(Durham Division)**

IN RE:

JACQUELYN McFADDEN

Debtor.

CASE NO. 05-83236

Chapter 7

ORDER GRANTING RELIEF FROM AUTOMATIC STAY

This matter having come before the undersigned Judge of the United States Bankruptcy Court upon Capital Bank's Motion to Lift Stay to Foreclose on Real Property (the "Motion") regarding two tracts of real property in Durham County, North Carolina, located at 402 East End Avenue, Durham, North Carolina 27701 and 113 North Guthrie Avenue, Durham North Carolina, 27703 (the "Property").

The Court having considered the Motion and the record in this case finds and concludes as follows:

1. Capital Bank filed its Motion on December 28, 2005.
2. The Clerk of the Bankruptcy Court mailed a notice to interested parties on December 30, 2005 that any objection to the Motion must be filed with the Court by January 16, 2006 and that if no objections were filed within that time period, the Court would consider the Motion without a hearing.
3. No objection to the Motion has been filed by any interested party, and the time within which objections must be filed as set forth in the Notice has expired.
4. Cause exists for modification of the automatic stay afforded by 11 U.S.C. § 362.

NOW, THEREFORE, IT IS HEREBY ORDERED, ADJUDGED and DECREED that the Motion is granted and the automatic stay afforded by 11 U.S.C. § 362 is modified to allow Capital Bank to exercise its rights and complete the pending foreclosure action with respect to the Property.

IT IS FURTHER ORDERED that Federal Rules of Bankruptcy Procedure Rule 4001(a)(3) is waived and that the Creditor may immediately enforce and implement this Order.

IT IS FURTHER ORDERED that if a sale of the Property is held and excess proceeds are derived, then such proceeds shall be deposited with the Chapter 7 Trustee in this case.

PARTIES TO BE SERVED

Debtor:

Jacquelyn McFadden
6010 Millstone Drive
Durham, N.C. 27713

Debtor's Spouse:

Torrance McFadden
6010 Millstone Drive
Durham, N.C. 27713

Sara A. Conti, Trustee
P.O. Box 939
Carrboro, N.C. 27510

Mike West
Bankruptcy Court Administrator
P. O. Box 1828
Greensboro, NC 27402